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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CAROL SHIFRIN GRUCHALA,
HAROLD C. FLEISCHER III, and JUDY MANDOLINI

Appeal 2009-004919
Application 09/886,046
Technology Center 2600

Decided: February 25, 2010

Before KENNETH W. HAIRSTON, CARLA M. KRIVAK, and
ELENI MANTIS MERCADER, *Administrative Patent Judges*.

HAIRSTON, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 15 to 28.[1] We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

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[1] Claims 1 to 14 have been canceled.

Appellants' invention is concerned with toll free 711 calls for individuals with speech and/or hearing impairments (Figs. 1-3; Spec. 1-3; Abstract). Appellants disclose and claim a system, method, and computer-readable medium storing a computer program for routing a call to a telecommunications relay service center including providing identification information such as a charge number of a calling party to a telecommunications relay service center over a signaling system seven (SS7) feature group D trunk line (Spec. 4-8; claims 15, 24, and 27).

Claim 15, reproduced below with emphasis added, is representative of the subject matter on appeal:

> 15. A method for routing a call to a telecommunications relay service center, the call being initiated in response to a calling party inputting a universal telephone number into a communications device, the method comprising:
>
> establishing a communications connection between the communications device and the telecommunications relay service center over a *signaling system 7 (SS7) feature group D trunk line*; and
>
> forwarding a *charge number* (CN) to the telecommunications relay service center over the signaling system 7 feature group D trunk line.

(Claim 15 (emphases added)).

The Examiner relies upon the following as evidence of unpatentability:

Morrisey US 5,524,146 Jun. 4, 1996

Jack Keating, *REPLY COMMENTS OF APCO AND NENA*, In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98-67, FCC, pp. 1-4, (Sep. 14, 1998) (hereinafter, "Keating")

Ex parte Letter from Marie T. Breslin, Federal Regulatory Director for Bell Atlantic, to Magalie Salas, Secretary of the Federal Communications Commission, Re: CC Docket No. 92-105, DA 99-1170, 711 Access to Telecommunications Relay Services, pp. 1-3, (Aug. 2, 1999) (hereinafter, "Breslin")

Letter from Karen Peltz Strauss. Legal Counsel for Telecommunication Policy for the National Association of the Deaf, to Magalie Salas, Secretary of the Federal Communications Commission, Re: FCC Public Forum on 711 Access to Telecommunications Relay Services – Ex Parte Comments CC Dkt. No. 92-105, pp. 1-6, (Aug. 2, 1999) (hereinafter, "Strauss")

In the Matter of Public Forum On 711 Access to Telecommunication Relay Services, FCC Proceedings, Helene Schrier Nankin (Moderator), pp. 1-117 (Sep. 8, 1999) (hereinafter, "FCC '105")

The following obviousness rejections are before us for review:

Claims 15 to 17, 27, and 28 stand rejected under 35 U.S.C. § 103(a) as unpatentable over FCC '105.

Claims 18 and 19 stand rejected under 35 U.S.C. § 103(a) as unpatentable over FCC '105, Morrisey, and Strauss.

Claims 20 to 23 stand rejected under 35 U.S.C. § 103(a) as unpatentable over FCC '105 and Keating.

Claims 24 to 26 stand rejected under 35 U.S.C. § 103(a) as unpatentable over FCC '105 and Breslin.

In all of the above listed rejections, the Examiner relies upon FCC '105 as describing the features of consumer profile information and group D connectivity (Ans. 3-9). The Examiner states that it is inherent that a system having consumer profile information will have a charge number (Ans. 3-4), and the telecommunication relay service center inherently or at least obviously forwards the charge number (Ans. 4). The Examiner determines

that it would have been obvious to establish a connection between a communications device and a telecommunications relay service center, and forward a charge number to the telecommunications relay service center, over a signaling system 7 (SS7) feature D trunk line "as motivated by AT&T's representative explanation of how they handle their calls" (Ans. 4).

Each of the independent claims on appeal recites establishing a communication connection between a communications device and a telecommunications relay service center and forwarding a charge number to the telecommunications relay service center over a "signaling system 7 (SS7) feature group D trunk line" (claims 15, 24, and 27). Appellants disclose that feature group D trunks can be either (i) a multi frequency feature group D trunk where an identifier is an automatic number identification (ANI), or (ii) a feature group D trunk operating with a signaling system 7 (SS7) network where the identifier is a charge number (Spec. 6, 8, and 16). Appellants disclose that an "identifier" or identifying information includes the location and/or phone number of the calling party and can be either a charge number or an automatic number identification (Spec. 5-6).

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. *See In re Fine*, 837 F.2d 1071, 1073 (Fed. Cir. 1988). On the record before us we find no supportive evidence for the Examiner's assertion (Ans. 4) that "AT&T's representative explanation of how they handle their calls" somehow equates to supporting a connection between a communications device and a telecommunications relay service center, and

forwarding a charge number to the telecommunications relay service center, over a signaling system 7 (SS7) feature D trunk line. Thus, the Examiner has not sufficiently established that FCC '105 discloses or suggests establishing a connection between a communications device and a telecommunications relay service center, and forwarding a charge number to the telecommunications relay service center, over a signaling system 7 (SS7) feature D trunk line. The Examiner has also not sufficiently established that it would have been obvious to modify FCC '105 to include this missing feature.

Furthermore, the Examiner's articulated reasoning in the rejection must possess a rational underpinning to support the legal conclusion of obviousness. *See In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Other than asserting that FCC '105 teaches that a representative from AT&T addressed the necessity of feature Group D-type connectivity as a preferred way for the company to handle carrier-of-choice calls (*see* Ans. 4 and 12), the Examiner has not articulated how or why it would have been obvious to establish a connection between a communications device and a telecommunications relay service center, and forward a charge number to the telecommunications relay service center, *over a signaling system 7 (SS7) feature D trunk line*.

FCC '105 (p. 99, ll. 11-13) discloses "Feature Group D-type connectivity," but is silent as to whether the connectivity is a signaling system 7 (SS7) feature D trunk line. FCC '105 also (p. 20, ll. 9-16) discloses transmitting consumer profile information including the

consumer's carrier of choice information, but is silent as to any transmission (or even the existence) of a charge number.

Appellants' arguments (App. Br. 7-20; Reply Br. 2-7) that a signaling system 7 feature group D trunk line as set forth in claims 15, 24, and 27 is not the same as or rendered obvious by the feature group D connectivity disclosed by FCC '105 are convincing. Appellants have demonstrated that the Examiner erred in determining that FCC '105 suggests or would have made obvious the establishing of a connection between a communications device and a telecommunications relay service center, and the forwarding of a charge number to the telecommunications relay service center, *over a signaling system 7 (SS7) feature D trunk line*, as set forth in independent claims 15, 24, and 27. *See Kahn*, 441 F.3d at 985-86.

The Examiner has not demonstrated how FCC '105's disclosure that AT&T handles carrier-of-choice calls using feature group D connectivity discloses, suggests, or would have made obvious the signaling system 7 (SS7) feature D trunk line which transmits a charge number, as recited in the claims. Accordingly, we will not sustain the Examiner's obviousness rejections of independent claims 15, 24, and 27, or dependent claims 16 to 23, 25, 26, and 28, which depend from respective ones of claims 15, 24, and 27, because the applied prior art neither teaches nor suggests the signaling system 7 (SS7) feature group D trunk line that forwards a charge number.

In summary, we will not sustain the obviousness rejections of claims 15 to 28 because (i) the Examiner has not established a factual basis to support the legal conclusion of obviousness (*see Fine*, 837 F.2d at 1073), and (ii) the Examiner's articulated reason for modifying the teachings of the

reference to FCC '105 does not support a legal conclusion of obviousness. *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398, 418 (2007).

The decision of the Examiner to reject claims 15 to 28 is reversed.

REVERSED

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